

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
IMS FUND, INC.,
:

Plaintiff,
:

-v-
:

SECOND PHASE, INC. ET AL,
:

Defendants.
:
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20-CV-4463 (JMF)

ORDER

JESSE M. FURMAN, United States District Judge:

On June 11, 2020, this action was removed from the Supreme Court of New York, New York County, by Defendants. *See* ECF No. 1 (“Notice of Removal”). Defendants assert that jurisdiction in this Court is proper by reason of diversity of citizenship, pursuant to 28 U.S.C. § 1332. *See id.* at 1. Plaintiff alleges that is a citizen of New York, and that Defendants are citizens of New Jersey and Texas. *Id.* at 3.


It is well established that a limited liability company (“LLC”) is deemed to be a citizen of each state of which its members are citizens. *See, e.g., Handelsman v. Bedford Vill. Assocs. L.P.*, 213 F.3d 48, 51-52 (2d Cir. 2000). Thus, a notice of removal premised upon diversity of citizenship must allege the citizenship of natural persons who are members of an LLC and the place of incorporation and principal place of business of any corporate entities that are members of the LLC. *See id.*; *see also, e.g., In re Bank of Am. Corp. Sec., Derivatives, and ERISA Litig.*, 757 F. Supp. 2d 260, 334 n.17 (S.D.N.Y. 2010); *Lewis v. Allied Bronze LLC*, No. 07 Civ. 1621 (BMC), 2007 WL 1299251, at *1-2 (E.D.N.Y. May 2, 2007) (remanding removed action for lack of diversity jurisdiction). In the present case, the Notice of Removal fails to do so.

Accordingly, it is hereby ORDERED that, **on or before June 22, 2020**, Defendants shall amend its Notice of Removal to allege the citizenship of each constituent person or entity comprising the Plaintiff LLC (including the state of incorporation and principal place of business of any corporate entity member). If, by that date, the Defendants unable to amend its Notice of Removal to truthfully allege complete diversity of citizenship, then the action will be remanded to the Supreme Court of New York, New York County, without further notice to either party.

Finally, Defendants are directed to, **within two business days of this Order**, serve on Plaintiff a copy of this Order and to file proof of such service on the docket. Counsel for Plaintiff is directed to file a notice of appearance on the docket **within two business days of such service**.

SO ORDERED.

Dated: June 15, 2020
New York, New York



JESSE M. FURMAN
United States District Judge